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24283	7590	07/14/2004	EXAMINER	
PATTON BOGGS 1660 LINCOLN ST SUITE 2050 DENVER, CO 80264			SHARMA, SUJATHA R	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/663,453

Filing Date: September 15, 2000

Appellant(s): ARIBINDI ET AL.

James M. Graziano
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/30/04.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-12 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim [WO 99/41853].

Regarding claims 1 and 7, Kim discloses a CDMA communication system, which provides a dedicated control channel capable of efficiently communicating control messages between a base station and mobile station. Kim further discloses a means for storing the data generated by the terminal and further segmenting the data in the core unit to include payload of pre-determined size. Kim further discloses a method of selecting a dedicated control channel and a packet traffic channel/supplemental channel. Kim further discloses a method of packaging the core unit into a RLP frame. See Fig.5, abstract, summary of invention, page 17, lines 10-16, page 21, lines 11-15.

Regarding claims 2 and 8, Kim further discloses a method of selecting the core unit and prepending a header to the core unit, the header comprising of sequence number and payload length. See figures 2A-2C, page 21, line 19 – page 23, line 2.

Regarding claims 3,5,9, and 11, Kim further discloses a method where a field in the header indicates whether the contents are for the dedicated control channel or for the supplementary channel of the radio link.

Regarding claims 4,10, Kim further discloses a method of concatenating a plurality of core units and prepending the header to the core unit. See figures 2A-2C, summary of invention and page 21, line 19 – page 23, line 2 and page 1, lines 12-19.

Regarding claims 6 and 12, Kim further discloses a method of appending the header and the core unit to the concatenated core units. See figures 2A-2C, summary of invention and page 21, line 19 – page 23, line 2 and page 1, lines 12-19.

Response to Arguments

The appellant's main argument is that the "Kim reference does not teach a method that enables the Kim communication system to use the dedicated control channel for transmitting user data when there exists a presently active radio link". The appellant further repeatedly argues the above underlined main argument on pages 6,7,8 and 9.

In response to the appellant's argument regarding the independent claims 1,7, the examiner disagrees because the Kim reference teaches a method where a control channel is assigned to mobile stations using the packet data service and the dedicated control channel

maybe used together with the voice traffic channel for high quality service. See page 12, lines 8-18. Since the control channel is assigned to "mobile stations" and not to any one particular mobile station, it is clear that the control channel is also assigned to the mobile station that is active and maybe used together with the voice traffic channel for high quality service. The assignment of voice traffic channel to a mobile station is indicative of the active radio link for the mobile station to which is also assigned a dedicated control channel as discussed above.

Further, the appellant's arguments indicate that there is a dedicated control channel for each mobile user. However, the claim does not indicate that a dedicate control channel is established to only one mobile station that is active but the limitation calls for "selecting said associated dedicated control channel of said presently active radio link to transmit data to said digital cellular mobile telecommunication network". Therefore the limitation is not limited to only one mobile station. Thus the claimed limitations still reads on the cited reference.

Therefore the rejections of the claims as discussed in the office action mailed 2/5/04 (see paper # 14) and as discussed in this office action are considered proper. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
Sujatha Sharma
Sujatha Sharma

Examiner

Art Unit 2684

SS
June 30, 2004

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